In the High Court of Uttaranchal, at Nainital.
A.O. No. 159/2003

1-Smt. Swaran Lata W/o Late Raj Kumar Singh
R/o 499, Model Colony, Awas Vikas, Tehsil and
District Haridwar.
2- Vivek Kumar Singh S/o Late Raj Kumar Singh,
R/o 499, Model Colony, Awas Vikas, Tehsil &
District Haridwar.
3- Smt. Anju Singh D/o late Raj Kumar Singh
W/o Rajeev Singh R/o 174/1 I.M.A. Colony
Dehradun
4- Smt. Manisha Singh D/o late Raj Kumar Singh
W/o Pratik Kumar R/o L- Block Shastri Nagar
Meerut, District Meerut ….. Appellants.

Versus

1- Furkan S/o Rashid R/o Village Kheri
Forizabad, Post Kakroli, Tehsil and
District Muzaffarnagar.
2- Habib Ahmad S/o Mohd. Hanif R/o G.T. Road
Purkaji, District Muzaffarnagar.
3- Oriental Insurance Company Ltd. Aasif Ali
Road, Delhi through Branch Office, Ranipur Moar
Haridwar, District Haridwar ……. Respondents.

Sri Arivind Vashist, learned counsel for the appellants.
Sri T.A. Khan, Advocate for the respondents-Insurance Co.

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: 17th May, 2006.

The appellants, who are claimants in the claim petition have filed this appeal against the judgment and award dated 5.4.003 passed by M.A.C.T./Addl. District Judge/ I F.T.C. Haridwar in M.A.C.P. No. 116/1998.

2- The main ground to challenge the impugned awarded is that the Tribunal while computing the compensation amount failed to apply the multiplier as held by the Hon'ble Apex Court from time to time and the amount has been computed on the basis of period of service left. It has been submitted that the Tribunal has wrongly considered the claim and did not consider other claims, i.e., loss of Provident Fund from the date of accident to the date of retirement, loss of interest of Provident Fund @ 9-5% per annum, loss of encashment of earned leave, loss of encashment of half pay

leave, loss L.T.C. encashment and loss of consortium to family towards mental agony suffered. It is also submitted that the Tribunal has wrongly awarded interest on the amount of compensation @ 9% per annum while the claimants-appellants are entitled to the interest @ 15 per annum.

3- At the stage of final hearing the appellants have filed the application U/O 41 Rule 27 C.P.C. for adducing additional evidence. The appellants have filed the documents along with the affidavit as Annexures – 1 and 2 which show the detail of Provident Fund Deduction and admissibility of E.L., Encashment and L.T.C. entitlement as well as photo copies of relevant extracts of service rules about the entitlement of L.T.C., encashment etc.

4- Having considered the arguments advanced by the learned counsel for the parties, we are of the opinion that the documents are necessary in order to adjudicate the dispute finally in order to award the compensation.

5- We accordingly allow the application and direct that the additional evidence which are being filed along with this application be kept on the file.

6- It would be desirable in the interest of justice that the Tribunal should reconsider the matter pertaining to the question of quantum of compensation only.

7- Accordingly the appeal is allowed. The impugned judgment and award dated 5.4.2003, passed by the M.A.C.T./Addl. District Judge/I F.T.C. Haridwar in MACP No. 116/1998 is set aside. The Tribunal is directed to decide the claim petition in view of the additional evidence filed by the appellants before this court with regard to the quantum of compensation only in accordance with law. It is made clear that the Tribunal will not be influenced in any manner by the order, allowing the application for filing the additional evidence at the appellate stage, passed by this court. However it will be open for the respondents to file the documents, if any, in rebuttal before the Tribunal.

8- As the accident in this case took place in the year 1998 therefore keeping in view this fact the Tribunal is directed to decide

the matter on the point of compensation only within a period of three months.

9- Let the record along with the additional evidence filed by the appellants before this court be immediately remitted back to the M.A.C.T. concerned.

(B.C. Kandpal, J.) **(P.C. Verma, J)**

ISB